

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984) MB Docket No. 05-
311
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

COMMENTS OF LEAGUE OF CALIFORNIA CITIES

These comments are filed by League of California Cities (League) in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA on the broad policy issues, the League believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis. The League of California Cities strongly supports and encourages innovation in telecommunications and increased competition. We strongly believe, however, that it is the responsibility of local authorities to protect the interests of their residents and local businesses, and that this is best accomplished through the local franchising process. In support of this belief, the League submits these comments to provide our perspective on how California cities approach video franchising.

Cable Franchising in Our Cities

Community Information

The League of California cities represents the 478 cities in California. 82% of Californians live in the state's 478 cities. California's cities are diverse; our cities are both large and small, and rural and urban.

Benefits of Local Franchising

The League's membership has made it clear to us that there is a significant value to local franchises. Our cities are motivated to issue appropriate local franchises for new entrants into video services on a timely basis, as well as to renew existing

franchises when they expire. Our membership has informed us that local franchising authority provides the following benefits:

Preservation of valuable city services: Franchise revenues in California are essential in maintaining basic services for our residents, including public safety, traffic management, and street and sidewalk preservation.

Ensures service availability to all consumers: Local governments are best positioned to address build-out requirements for providers and ensure service availability to all consumers by preventing redlining, which excludes service to lower income, often minority, neighborhoods.

Maintains key services to our local community: Municipalities must be able to continue to ensure the inclusion of key services, including public, education and government channels, as well as make sure that local emergency alerts and institutional networks meet specific local needs.

Preserve the management of the public rights of way and safety: Local governments are important and proven stewards of the public rights-of-way, and are pivotal in helping to prevent public safety issues resulting from overcrowding and improper use, ensuring local emergency (911) services are provided, as well as addressing customer service and local business concerns related to misuse of public rights-of-way.

Local franchise agreements enable cities to decide locally how to best to address local needs. Federal regulations cannot be drafted that would recognize each cities unique needs.

No evidence of barriers to new entrants

As discussed above, the League has not found evidence that local franchise authorities have unreasonably refused to grant competitive franchises. Rather, we have heard that new entrants are negotiating and receiving franchises that allow them to construct and operate their systems, as well as providing the competition that our membership desires.

California cities have not been impediments to new entrants who are looking to come into a city, and some cities have actively sought competition to provide better service at a lower price. The cry that the FCC has heard from new entrants that the franchising process takes “too long” needs to be evaluated critically. Artificial timelines imposed by unrealistic business models may not be reasonable, and therefore, the perception that the franchising process is taking too long may also not be reasonable.

A responsible city needs to evaluate its citizen's needs, and this may take some time. But existing law imposed on cable operators acknowledge that it is proper for a city to do a needs analysis. New entrants cannot reasonably expect a city to do anything less than if it were the incumbent operator seeking a franchise renewal. The FCC should also consider whether the industry itself is contributing to the delay by not promptly, responding to offers, unreasonably rejecting fair offers, making unreasonable counter-demands, or simply not responding in a timely fashion.

Conclusions

The local franchising process functions well in California. The robust cable services industry in California demonstrates that clearly. California cities are experienced at working with video providers to both ensure that the needs of the local community are met, and to ensure that the practical business needs of cable providers are taken into account.

Local franchising ensures that local video operators are allowed access to the rights of way in a fair and evenhanded manner so that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local franchising also allows local authorities to provide valuable customer protection oversight, and ensure that local subscribers are receiving high quality, effective customer service. While the FCC has adopted customer service standards, local authorities have primarily been responsible for enforcing these standards, and any stricter local standards. The consumer has benefited greatly from local enforcement, and the FCC should acknowledge and preserve this benefit.

Finally, local franchises allow each community to have a voice in how local video systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. Any future Federal regulations must ensure that new entrants are required to at least match those benefits that the incumbent operator has been required to provide, or pay the cash equivalent to the local authority. Competitive equity requires no less.

The League of California Cities therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising, or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to both existing cable service providers and new entrants.

Respectfully submitted,

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